

MR. ZEMEL

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1583

October 22, 1964

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - EPSTEIN v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - PETITION FOR CERTIFICATION DENIED.
2. COURT DECISIONS - NORTH CENTRAL COUNTIES RLISA AND WRIGHT v. LOPATCONG, PACKARD-BAMBERGER & CO., INC. AND DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.
3. APPELLATE DECISIONS - TAVARES AND PICA v. EAST ORANGE.
4. APPELLATE DECISIONS - HUGHES SILVER MIST INN, INC. v. BUENA.
5. DISCIPLINARY PROCEEDINGS (Deal) - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Gloucester City) - ORDER LIFTING SUSPENSION FOR BALANCE OF TERM UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.
7. DISCIPLINARY PROCEEDINGS (Trenton) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Perth Amboy) - SALE TO MINORS - PRIOR DISSIMILAR RECORD OF STOCKHOLDER - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE TO A MINOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Passaic) - SALE BELOW FILED PRICE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS - (Millville) - SUPPLEMENTAL CONCLUSIONS AND ORDER AFFIRMING PRIOR FINDING OF GUILTY AND REIMPOSING SUSPENSION.
12. DISCIPLINARY PROCEEDINGS (Hainesport) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1583

October 22, 1964

1. COURT DECISIONS - EPSTEIN v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - PETITION FOR CERTIFICATION DENIED.

LOUIS L. EPSTEIN and JULIUS E.
EPSTEIN, et al.

Plaintiffs-Petitioners,

v.

DIVISION OF ALCOHOLIC BEVERAGE
CONTROL OF THE STATE OF NEW JERSEY,

Defendant-Respondent.

) SUPREME COURT OF
) NEW JERSEY
)
) On Petition for
) Certification
) Order Denying Petition

To Appellate Division, Superior Court:

A petition for certification * having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the fourteenth day of September, 1964.

FILED
Sept. 14, 1964
John H. Gildea
Clerk

(sgd) John H. Gildea
Clerk of the Supreme Court

* to the Appellate Division from its decision in Epstein v. Division of Alcoholic Beverage Control, A-98-63; A-168-63, decided May 21, 1964, not officially reported, recorded in Bulletin 1565, Item 4,

2. COURT DECISIONS - NORTH CENTRAL COUNTIES RLSA AND WRIGHT v. LOPATCONG, PACKARD-BAMBERGER & CO., INC. AND DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-649-63

NORTH CENTRAL COUNTIES RETAIL LIQUOR)
STORES ASSOCIATION and JOHN WRIGHT,)
)
appellants,)
)
vs.)
)
TOWNSHIP COMMITTEE OF THE TOWNSHIP OF)
LOPATCONG, PACKARD-BAMBERGER & CO., INC.,)
a New Jersey corporation, and the)
DIVISION OF ALCOHOLIC BEVERAGE CONTROL,)
Department of Law and Public Safety,)
State of New Jersey,)
)
respondents.)

Argued September 14, 1964 -- Decided September 22, 1964

Before Judges Goldmann, Sullivan and Labrecque.

Mr. Samuel J. Davidson argued the cause for appellants (Mr. Samuel Moskowitz, attorney; Mr. Davidson, on the brief).

Mr. Edwin C. Landis, Jr., argued the cause for respondent Packard-Bamberger & Co., Inc. (Messrs. Meyner & Wiley, attorneys).

Mr. Samuel B. Helfand, Deputy Attorney General argued the cause for respondent Division of Alcoholic Beverage Control (Mr. Arthur J. Sills, Attorney General, attorney).

Respondent Township Committee of the Township of Lopatcong did not file a brief.

PER CURIAM

(Appeal from Director's decision in North Central Counties RLSA v. Lopatcong and Packard-Bamberger, Inc. Bulletin 1555, Item 1. Director affirmed. Opinion not approved for publication by the Court committee on opinions).

3. APPELLATE DECISIONS - TAVARES AND PICA v. EAST ORANGE

Joseph M. Tavares and Matthew A.)	
Pica, t/a Gold Rose Wines &	
Liquors,)	On Appeal
Appellants,)	
v.)	CONCLUSIONS
	AND ORDER
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of East Orange,)	
Respondent.)	

Frank P. Marano, Esq., Attorney for Appellants
 William L. Brach, Esq., by Jack Okin, Esq., Attorney for Respondent
 Crummy, Gibbons & O'Neill, Esqs., by Matthew P. Boylan, Esq., and
 Brass & Brass, Esqs., by Leonard Brass, Esq., Attorneys for
 Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of respondent whereby it unanimously denied appellants' application for place-to-place transfer of their Plenary Retail Distribution License D-6 from premises 48 South Harrison Street to premises 604A Central Avenue, East Orange. Respondent's determination was set forth in a resolution dated April 1, 1964, which reads as follows:

"RESOLVED that the Board has made the following findings of fact:

"1. That due to the number of plenary retail liquor licenses, both for consumption and distribution, on Central Avenue near the location proposed to be licensed to wit; 604A Central Avenue, that approval of this transfer will result in an undue crowding and concentration of licensed establishments, and

"2. That the proposed transfer will not render a convenience in service to an extent not otherwise available to persons in the area of the proposed location, and

"3. That there are sufficient available licensed establishments to persons living in and utilizing the facilities located in and around the proposed location, and

"IT IS FURTHER RESOLVED that the application of Joseph M. Tavares and Matthew A. Pica T/A Gold Rose Wines & Liquors for a transfer of plenary retail distribution license #D-6 from 48 South Harrison Street, East Orange, New Jersey to 604A Central Avenue, East Orange, New Jersey be, and the same is, hereby denied."

Appellants contend in their petition of appeal that the action of respondent was erroneous and should be reversed for the following reasons:

"(a) The appellants are being compelled to move from their present location because the building which they are in was condemned by the State of New Jersey for a Freeway, so that the move is not a voluntary one, but one which is being forced upon them and causing great hardship.

"(b) The customers and clientele of the appellants admittedly come from apartment houses and houses located on South Harrison Street, East Orange, from Central Avenue to Brick Church Station, and in the surrounding streets, such as Webster Place, Hampton Street, Ivanhoe Terrace, Berwyn Street and Kennilworth Street.

"(c) In making its forced move, the appellants are limited in the number of stores which they could find in the immediate area and the store which they found is the only one available in this area.

"(d) There is no undue crowding and concentration of licensed establishments because the only other establishment carrying a package liquor license in the area in which they seek to move is Cork N Bottle; the Cork N Bottle admittedly serves an area south of Central Avenue, in which approximately 400 apartment family units have been and are being built.

"(e) Appellants cannot move from this area without losing its clientele, and there is no place they can move in the City of East Orange without being within 1250 feet of another licensed establishment. A move away from this area will result in loss of service and convenience to its customers and would cause overcrowding to another licensee or licensees.

"(f) The Board took a hard interpretation of the Ordinance regarding a convenience in service to an extent not otherwise available to persons in the area of the proposed location, in that it failed to consider the fact that the appellants were already in the area, and that it was not a new application or a voluntary transfer.

"(g) The reasoning of the Board that there are sufficient available licensed establishments to persons living in and utilizing the facilities located in and around the proposed location is unfair because the appellants are already in the area. In fact a map will show that this is the least concentrated area, with the greatest increase in new living units, and that there is nowhere in East Orange where a package liquor license can move without being within 1250 feet of another licensed premises, and therefore there would be available to persons living in that area a licensed establishment."

Respondent, in its answer, denies the allegations.

Ordinance #31 adopted by the City Council of East Orange on October 22, 1962, and approved by the Mayor on October 23, 1962, amended Chapter 3 (Alcoholic Beverages) of the municipal ordinances by adding Section 4 (b) which is applicable to the matter now under consideration and reads as follows:

"No plenary retail distribution license or retail consumption license shall be issued nor shall any plenary retail distribution license or plenary retail consumption license be transferred to different premises within 1,250 feet of any other licensed establishment as aforesaid, provided, however, nothing herein shall prevent renewals or transfers to another licensee of licenses heretofore issued for use on the same premises on which the license is presently in operation. Notwithstanding the foregoing provision, the Municipal Board of Alcoholic Beverage Control of this City may, after hearing and upon review of the location and availability of other licensed establishments to persons living in and utilizing the facilities located in and around the proposed location and of general neighborhood characteristics and boundaries, determine that approval of the transfer shall not result in an undue crowding and concentration of licensed establishments, shall render a convenience and service to an extent not otherwise available to persons in the area of the proposed location and shall be consonant with and an asset to the neighborhood, and upon making findings substantiating the foregoing, may waive the application of the foregoing restriction and approve the transfer.

"The 1,250 foot requirement, as provided herein, shall be measured radially in all directions from the main entranceway of the new proposed location of the licensed establishment seeking a transfer."

It appears that a plenary retail distribution license is issued and outstanding for 605 Central Avenue and also a plenary retail consumption license for 611 Central Avenue, both establishments being across the street from the proposed premises. Thus, two liquor establishments are located within 1250 feet of the premises sought to be licensed. Respondent determined that no need exists for another licensed premises at the proposed location because there are already sufficient liquor outlets to serve people in the area and appellant would not render a convenience in service which is not available at present to residents in the neighborhood.

Joseph Tavares, one of the appellants-licensees, testified that the proposed premises are 1250 to 1400 feet distant from the present premises; that in his opinion, both premises are in the same area; and that it is appellants' desire to remain in that area in order to retain their present customers.

It is understandable that appellants desire to conduct their business in the same section of the community although the proposed premises are not in the immediate neighborhood wherein appellants' premises are presently located.

However, the Superior Court of New Jersey (Smith v. Bosco, et als, 66 N. J. Super. 165, 170 (App. Div.)) stated:

"It is elementary that concern for the licensee's own financial misfortunes will not be elevated above the public interest. Cf. Hudson Bergen County Retail Liquor Stores Ass'n v. Board of Com'rs of Hoboken, 135 N.J.L. 502, 510 (E. & A. 1947). Administrative efforts to accommodate individual licensees must be accomplished within the framework of the existing legislation, construed in terms of the overriding public policy. So viewed, appellant's application and reasons therefor were properly held by the Director to be outside the scope of the relief clause of Section 4 of the ordinance. It would hardly further the salutary principle of keeping 'the door of the escape clause as nearly shut as possible,' Dal Roth, Inc. v. Division of Alcoholic Beverage Control, supra, at pp. 254-255, to provide every economically dissatisfied licensee with a potentially powerful opening wedge."

The test applied in a matter such as now under consideration is whether there was an abuse of discretion on the part of respondent in denying the transfer.

It has long been established that the number of liquor licenses which should be permitted in any particular area, and whether or not a license should be transferred to a particular location, are matters within the sound discretion of the municipal issuing authority. The Director's function on appeal is not to substitute his opinion for that of the issuing authority but, rather, to determine if proper cause exists for its opinion and, if so, to affirm irrespective of his personal views. Rothman v. Hamilton Township, Bulletin 1091, Item 1; Food Fair Stores of New Jersey, Inc. v. Union, Bulletin 1129, Item 1; The Grand Union Co. v. West Orange, Bulletin 1155, Item 3. This view is stated in Ward v. Scott, 16 N. J. 16 (1954) (cited in Fanwood v. Rocco, et al, 59 N.J. Super. 306) wherein the Supreme Court dealt with an appeal from a zoning variance which had been granted by a municipality:

"Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications. . . And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished: 'Universal distrust creates universal incompetence.' Graham v. United States, 231 U. S. 474, 480, 34 S.Ct. 148, 151, 58 L.Ed. 319, 324 (1913). Where, as here, the application. . . has been given careful and conscientious consideration by the zoning board and the town council and has been acted upon by both of them in strict conformity with the procedural and substantive terms of the statute, the ultimate interests of effective zoning will be advanced by permitting the action of the municipal officials to stand, in the absence of an affirmative showing that it was manifestly in abuse of their discretionary authority."

This is particularly important in the present case which concerns a question of liquor regulation and in which the municipality did not grant but denied the application. The action of the municipal issuing authority may not be reversed by the Director unless he finds "the act of the board was clearly against the logic and effect of the presented facts."

Hudson Bergen County Retail Liquor Stores Association, Inc. v. Hoboken, 135 N.J.L. 502, 511.

There has been no evidence presented that the members of respondent Board were in any manner improperly motivated in denying the transfer.

I have fully considered all of the various grounds of appeal set forth by the appellants in their petition of appeal. After reviewing the testimony and the exhibits, including the argument given at the close of the hearing by the attorneys for the parties hereto, I find that respondent's unanimous action is neither arbitrary, capricious, unreasonable nor an abuse of the discretion vested in it.

I conclude that appellants have failed to sustain the burden of proof necessary to establish that the action of respondent was erroneous so as to warrant reversal thereof. Rule 6 of State Regulation No. 15. Hence, I recommend that an order be entered affirming respondent's action and dismissing the appeal.

Conclusions and Order

No exceptions to the Hearer's Report were filed with me pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the record herein, including the transcripts of the testimony, the exhibits, the argument of the attorneys representing the parties herein, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 25th day of August, 1964,

ORDERED that the action of the respondent be and the same is hereby affirmed and that the appeal filed herein be and the same is hereby dismissed.

JOSEPH P. LORDI
Director

4. APPELLATE DECISIONS - HUGHES SILVER MIST INN, INC. v. BUENA.

Hughes Silver Mist Inn, Inc.,)	
t/a Gwen's Tavern,)	
)	On Appeal
Appellant,)	
)	ORDER
v.)	
)	
Borough Council of the)	
Borough of Buena,)	
)	
Respondent.)	

Mark A. De Marco, Esq., Attorney for Appellant
 Donald Phillips, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant appeals from denial by respondent of its application for renewal for the licensing year 1964-1965 of plenary retail consumption license for premises Harding Highway, Buena.

Prior to the hearing on appeal, by letter dated August 24, 1964 the attorney for appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 27th day of August 1964,

ORDERED that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI
 Director

5. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
)	
Antonio Pontecorvo)	
t/a American Food Market)	
100 Norwood Avenue)	
Deal, New Jersey)	CONCLUSIONS
)	AND ORDER
Holder of Plenary Retail Distribution)	
License D-1, issued by the Board of)	
Commissioners of the Borough of Deal)	

Edward F. Juska, Esq., Attorney for Licensee
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 17, 1964, he sold two quart bottles of beer to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered leaving a net suspension of ten days. Re Breunig, Bulletin 1532, Item 8.

ORDERED that Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the Borough of Deal to Antonio Pontecorvo, t/a American Food Market, for premises 100 Norwood Avenue, Deal, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. Monday, August 31, 1964, and terminating at 9:00 a.m. Thursday, September 10, 1964.

6. DISCIPLINARY PROCEEDINGS - ORDER LIFTING SUSPENSION FOR BALANCE OF TERM UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

ORDER

JOSEPH P. LORDI
Director

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR
 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

Zotto's Corp.)
 t/a Zotto's)
 1324 Hamilton Avenue)
 Trenton, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-124, issued by the)
 City Council of the City of Trenton.)

 Pellettieri and Rabstein, Esqs., by George Pellettieri, Esq.,
 Attorneys for Licensee
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic
 Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
 July 13, 1964, it possessed an alcoholic beverage in one bottle
 bearing a label which did not truly describe its contents, in
 violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license
 by the Director for five days effective May 6, 1963, for sale
 below filed price (Re Zotto's Corp., Bulletin 1514, Item 6) and
 for thirty days effective May 27, 1964, for sale below filed price
 and sale in violation of State Regulation No. 38 (Re Zotto's Corp.,
 Bulletin 1569, Item 3).

The established minimum penalty for the charge herein
 is suspension of license for ten days (Re Six Steps Down, Inc.,
 Bulletin 1572, Item 5), to which will be added ten days by reason
 of the record of suspension of license for two previous dissimilar
 violations within the past five years (Re Golia, Inc., Bulletin
 1556, Item 6) or a total of twenty days, with remission of five
 days for the plea entered, leaving a net suspension of fifteen
 days.

Accordingly, it is, on this 26th day of August, 1964,

ORDERED that Plenary Retail Consumption License C-124,
 issued by the City Council of the City of Trenton to Zotto's Corp.,
 t/a Zotto's, for premises 1324 Hamilton Avenue, Trenton, be and
 the same is hereby suspended for fifteen (15) days, commencing
 at 2:00 a.m. Wednesday, September 2, 1964, and terminating at
 2:00 a.m. Thursday, September 17, 1964.

JOSEPH P. LORDI
 Director

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR DISSIMILAR RECORD OF STOCKHOLDER - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Maple Hotel, Inc.,
t/a Maple Hotel and Bar
317 Maple Street
Perth Amboy, New Jersey,

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-86, issued by the Board of Commissioners of the City of Perth Amboy.

ORDER

Wilentz, Goldman & Spitzer, Esqs., by Warren W. Wilentz, Esq.,
Attorneys for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 20, 1964, it sold beer to two minors, both 20 years of age, in violation of Rule 1 of State Regulation No. 20.

Although the licensee-corporation has no prior record, when the license for the same premises was held in the individual name of Morris W. Aneckstein, now an officer and stockholder in the licensee-corporation, the license was suspended by the municipal issuing authority for five days effective July 1, 1962, for sale of alcoholic beverages for off-premises consumption during prohibited hours.

On the instant charge the license will be suspended for ten days (Re Paini, Bulletin 1538, Item 7), to which will be added five days for the previous record of suspension of license then held by Morris W. Aneckstein for dissimilar violation during the past five years (cf. Re C.A.R. Corporation, Bulletin 1560, Item 9), or a total suspension of fifteen days. Five days will be remitted for the plea entered, leaving a net suspension of ten days.

Accordingly, it is, on this 31st day of August, 1964,

ORDERED that Plenary Retail Consumption License C-86, issued by the Board of Commissioners of the City of Perth Amboy to Maple Hotel, Inc., t/a Maple Hotel and Bar, for premises 317 Maple Street, Perth Amboy, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, September 7, 1964, and terminating at 2 a.m. Thursday, September 17, 1964.

JOSEPH P. LORDI
Director

9. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Gloria Sender
t/a Nathan & Charles
161 Manhattan Avenue
Jersey City, N. J.

Holder of Plenary Retail Distribution
License D-63, issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Jersey City

CONCLUSIONS
AND ORDER

Michael Halpern, Esq., Attorney for Licensee
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 11, 1964, she sold two quart bottles of beer to a minor, age 17, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Scanlan, Bulletin 1574, Item 3.

Accordingly, it is, on this 31st day of August, 1964,

ORDERED that Plenary Retail Distribution License D-63, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Gloria Sender, t/a Nathan & Charles, for premises 161 Manhattan Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. Monday, September 7, 1964, and terminating at 9:00 a.m. Tuesday, September 22, 1964.

JOSEPH P. LORDI
Director

10. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - PRIOR
SIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR
PLEA.

In the Matter of Disciplinary)
Proceedings against)

Arthur J. Salomon and David P.)
Salomon, t/a Joe Salomon)
133 Market Street)
Passaic, New Jersey)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-104, issued by the Board of)
Commissioners of the City of Passaic)

Licensees, by Arthur J. Salomon, Pro se
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
July 27, 1964, they sold twenty-four cans of beer at less than
filed price, in violation of Rule 5 of State Regulation No. 30.

Licensees have a previous record of suspension of li-
cense by the Director for five days, effective April 18, 1955,
for sale below filed price. Re Salomon, Bulletin 1060, Item 3.

The prior record of suspension of license for similar
violation occurring more than five but less than ten years ago
considered, the license will be suspended for fifteen days (Re
Pretzfelder and Davis, Bulletin 1571, Item 11; Re Sports Bar &
Grill, Inc., Bulletin 1540, Item 4), with remission of five
days for the plea entered, leaving a net suspension of ten days.

Accordingly, it is, on this 1st day of September, 1964,

ORDERED that Plenary Retail Consumption License C-104,
issued by the Board of Commissioners of the City of Passaic to
Arthur J. Salomon and David P. Salomon, t/a Joe Salomon, for
premises 133 Market Street, Passaic, be and the same is hereby
suspended for ten (10) days, commencing at 3:00 a.m. Tuesday,
September 8, 1964, and terminating at 3:00 a.m. Friday, September
18, 1964.

JOSEPH P. LORDI
Director

**In the Matter of Disciplinary
Proceedings against**

**SUPPLEMENTAL
CONCLUSIONS
and
ORDER**

Licensee, Pro se
David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control

The Hearer has filed the following Report herein:

On May 6, 1964, the Director entered an order suspending the licensee's plenary retail consumption license for fifteen days commencing May 13, 1964, after finding licensee guilty of possession on his licensed premises of an alcoholic beverage in one bottle bearing a label which did not truly describe its contents. Re Wrzesniewski, Bulletin 1567, Item 7.

At the hearing herein the licensee testified that the agent made two visits to the licensed premises on March 10, 1964; that on the first visit the agent tested the open stock of liquor, seized two bottles thereof, but neglected to seal the caps of said bottles before removing them from the premises; that, when the agent returned after lunch, he brought the bottles back into the premises, sealed the caps on the bottles, and filled out various forms.

I have carefully examined the testimony and believe the agent's version of what happened on the date in question, rather than that given by the licensee. I find as a fact that on the agent's first visit to the licensed premises on March 10, 1964, he sealed the two bottles of liquor before removing them from the licensed premises and, upon his return after lunch, did not bring the bottles back into the premises. I also find as a fact that the said bottles of liquor were continuously in the

agent's possession until he delivered them to the Division chemist for chemical analysis. The licensee testified that he is not making any charge that the agent tampered with the contents of the questionable bottles.

The contents of one of the bottles was found by the chemist to be within the range of ingredients of the brand as labeled and therefore no charges were preferred with reference thereto.

Under the circumstances, it is recommended that the finding of guilt to the charge herein made against the licensee remain undisturbed. It is further recommended that the fifteen-day suspension of license previously imposed, and thereafter vacated by order of the Director, be reimposed in this matter.

Supplemental Conclusions and Order

No exceptions to the Supplemental Hearer's Report were filed within the time limited by Rule 6 of State Regulation No. 16.

I have carefully examined the Supplemental Hearer's Report and his recommendation in this matter. I concur in the Hearer's conclusions and adopt them as my conclusions herein.

Accordingly, it is, on this 1st day of September, 1964,

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Millville to Edmund Wrzesniewski, t/a Eddie's Bar, for premises w/s of S. Second St., South Delsea Drive, Millville, be and the same is hereby suspended for fifteen (15) days, commencing at 1 a.m. Tuesday, September 8, 1964, and terminating at 1 a.m. Wednesday, September 23, 1964.

Joseph P. Lordi,
Director

12. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against

SAMUEL STROBACK & MARY GILLINGHAM
 t/a HILLTOP INN
 s/e corner of Marne Highway &
 Mt. Laurel Road
 Hainesport, New Jersey

CONCLUSIONS
 AND ORDER

Holders of Plenary Retail Consumption
 License C-4, issued by the Township
 Committee of the Township of Hainesport.

 W. Warren Luckenbill, Esq., Attorney for Licensees.
 Morton B. Zemel, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

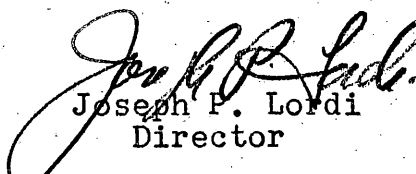
BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
 August 15, 1964, they possessed an alcoholic beverage in one
 bottle bearing a label which did not truly describe its
 contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
 ten days, with remission of five days for the plea entered,
 leaving a net suspension of five days. Re Six Steps Down, Inc.,
 Bulletin 1572, Item 5.

Accordingly, it is, on this 14th day of September, 1964,

ORDERED that Plenary Retail Consumption License C-4,
 issued by the Township Committee of the Township of Hainesport
 to Samuel Strobach and Mary Gillingham, t/a Hilltop Inn, for
 premises southeast corner of Marne Highway and Mt. Laurel Road,
 Hainesport, be and the same is hereby suspended for five (5)
 days, commencing at 2:00 a.m. Monday, September 21, 1964, and
 terminating at 2:00 a.m. Saturday, September 26, 1964.


 Joseph P. Lordi
 Director